

The regular meeting of the City Council was held in the Council Chambers at City Hall on November 4, 2008 at 7:02 p.m. after the 6:30 p.m. work study caucus session with Mayor David Cline and Commissioners Randy Ervin, Rick Hall, Joe McKenzie, and David Schilling physically present. Other City employees physically present were City Administrator Alan Gilmore, City Attorney J. Preston Owen, Public Works Director David Wortman, Water Treatment Plant Superintendent Jim Lang, Fire Chief Mike Chism, Police Chief David Griffith, and City Clerk Susan O'Brien. Discussion items were the pending agenda items. Commissioner Hall elaborated on the existing waterfowl rules. Director Wortman clarified the sewer line bid with Attorney Owen expressing his opinion. Commissioner Ervin explained his vote against the non-local contractor bid. Commissioner Schilling attending his opinion if the Council did not accept the lowest sewer line bid and noted the number of TIF projects and payments. Director Wortman explained the lack of carbon in the filters causing the bad taste/odor of the water. Caucus session closed at 6:45 p.m.

Mayor Cline presiding.

Mayor Cline led the Pledge of Allegiance.

The following members of the Council answered roll call physically present: YEA Commissioner Randy Ervin, YEA Commissioner Rick Hall, YEA Commissioner Joe McKenzie, YEA Commissioner David Schilling, YEA Mayor David Cline.

Also physically present were City personnel: City Administrator Alan Gilmore, Attorney & Treasurer J. Preston Owen, Public Works Director David Wortman, Water Treatment Plant Superintendent Jim Lang, Police Chief David Griffith, Fire Chief Mike Chism and City Clerk Susan O'Brien.

Mayor Cline seconded by Commissioner Schilling moved to approve the consent agenda consisting of minutes of the regular meeting October 21, 2008; Joint Council meeting October 29, 2008, and bills and payroll for the last half of October, 2008.

Mayor Cline declared the motion to approve the consent agenda carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor Cline.

Mayor Cline opened the floor for discussion. Council heard communications from the following waterfowl hunters: Brad Metcalf 2213 Charleston Avenue, Mattoon; Bruce Daniell 3216 Western Avenue, Mattoon; Rob King #1 Armstrong Drive, Neoga; Kenny Keefer 2039 McKinley, Charleston; Bill Bosler 2045 McKinley, Charleston; Brian Myerscough 3105 Loren Lane, Charleston; Elmer Smith R.R.#1, Neoga; Tim Marucco 1076 Osage Road, Charleston; Mark Vanderverter, Sullivan; and Ray Hamilton, Mattoon. Commissioner Hall stated the City would continue to enforce the current rules and have a public hearing. Council and Attorney & Treasurer Owen further discussed hunting on Lake Mattoon. There were no other discussions.

Mayor Cline seconded by Commissioner McKenzie moved to approve Council Decision Request 2008-913, accepting the regular status of Officer Jordan Gentry at the Police Department effective October 28, 2008, due to completion of his one-year probation.

Mayor Cline opened the floor for discussion. No discussion.

Mayor Cline declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor Cline.

Commissioner Hall moved to approve Council Decision Request 2008-914, accepting the existing waterfowl hunting regulations at Lake Mattoon as codified in Section 98.032 of the Mattoon Municipal Code, and approving the additional rules and regulations.

The motion died for lack of a second.

Commissioner McKenzie seconded by Commissioner Schilling moved to approve Council Decision Request 2008-915, accepting the bid of \$31,378 from Jansen Cable Construction of Effingham for construction of a sewer line located at 208 North 35th Street; and authorizing the Mayor to sign the contract. [07-00159-00-SN)

Mayor Cline opened the floor for discussion. Mayor Cline inquired as to how long of a need for this line with Commissioner McKenzie replying 10 years.

Mayor Cline declared the motion carried by the following vote: NAY Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor Cline.

Mayor Cline seconded by Commissioner Ervin moved to adopt Ordinance 2008-5264, approving the Electric Utility Franchise Agreement with Coles Moultrie Electric Cooperative.

CITY OF MATTOON, ILLINOIS

ORDINANCE NO. 2008 - 5264

AN ORDINANCE RENEWING AN EXISTING FRANCHISE AND GRANTING FOR A PERIOD OF 20 YEARS TO COLES-MOULTRIE ELECTRIC COOPERATIVE, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE, RIGHT, PERMISSION AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, EXCAVATE FOR, PLACE, REMOVE, EXTEND, MAINTAIN AND OPERATE AN ELECTRIC UTILITY SYSTEM IN THE CITY OF MATTOON, COUNTY OF COLES AND STATE OF ILLINOIS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MATTOON, COUNTY OF COLES, AND THE STATE OF ILLINOIS, AS FOLLOWS:

SECTION 1. It is the intent of the parties by this Ordinance to extend for an additional term, subject to the terms and conditions here stated, the authorization to Coles-Moultrie Electric Cooperative, its successors and assigns, to construct, operate and maintain a utility system within the City as originally authorized by an Ordinance No. 84-4451 approved on January 17, 1984, and extended per Special Ordinance No. 2006-1109 on March 6th, 2006. The parties acknowledge that by doing so they are continuing an existing relationship authorizing the services of a utility for the provision of electric energy and other purposes within the City for the benefit of its citizens and residents as well as other consumers of electric energy located within its corporate limits. For purposes of construing the terms, rights and obligations of the parties this authorization is granted pursuant to Section 14 of the Electric Supplier Act, 220 ILCS 30/14, and the Illinois Municipal Code. 65 ILCS 5-1-1-1, et seq.

SECTION 2. There is hereby given and granted to Coles-Moultrie Electric Cooperative, its successors and assigns (hereinafter referred to as the "Cooperative"), the right, privilege and authority to construct, operate, maintain and/or extend within the corporate limits, as the same now exists or may hereafter be extended, of the City of Mattoon (hereinafter referred to as "Municipality"), an electric utility system for the transmission, distribution and/or sale of electric energy and other purposes (the "System"), together with the right, privilege and authority to erect, construct, install, operate and/or maintain all poles, conductors, wires, cables, conduits, equipment and/or other apparatus as may be necessary or convenient for the System, in, upon, along, over, under, through and/or across each and all of the streets, avenues, alleys, bridges, easements, rights of way and/or other public places.

SECTION 3. The rights granted herein shall extend to an include all the locations, premises, areas and territory annexed to the Municipality prior to, on, or after the effective date of this Ordinance for which one or more of the following conditions apply: (a) Grantee has electric lines in, on or in proximity to; (b) Grantee would be entitled to serve with electricity by virtue of the provisions of the Electric Supplier Act, as enacted by the 74th General Assembly of the State of Illinois and approved on July 2, 1965, if said locations, premises, areas or territory had not been annexed; (c) Grantee is entitled to serve with electricity by virtue of the provisions of the Electric Supplier Act, enacted by the 74th General Assembly of the State of Illinois and approved on July 2, 1965.

SECTION 4. All poles and other equipment placed or installed under this Ordinance in streets, alleys, avenues and other public places, shall be so placed as not to interfere unnecessarily with travel on such streets, alleys, avenues and other public places. All poles and other equipment placed or installed under this Ordinance shall be so located as not to injure unnecessarily any pipes, conduits, sewers, drains, pavement or other like public improvements, and said Cooperative shall forthwith repair any damage caused to such improvements to as good a state of repair and condition as existed prior to the Cooperative's placement, installation, or repair of system improvements. All facilities of Cooperative in said Municipality shall be installed and maintained in accordance with the applicable rules and regulations of the National Electric Safety Code and the National Electric Code.

For Cooperative's facilities existing as of the date of the signing of this agreement, when any street, avenue or other public place shall be graded, curbed, paved or otherwise changed so as to make the resetting or relocation of any poles or other equipment placed or installed under this Ordinance necessary, the Cooperative shall make such resetting or relocation. Municipality shall provide the Cooperative with a suitable location for the resetting or relocation of such poles or other equipment, and the Cooperative's obligation shall be limited to resetting or relocating poles or other equipment of the same type and configuration as the displaced poles or other equipment. Cooperative shall make such resetting or relocation within a reasonable time after receiving written notice of the need for the same from the authorized representative of the Municipality, and the establishment by the Municipality of the permanent grade at the new location. The Municipality and Cooperative shall negotiate the price to be paid for the relocation. Under no circumstances shall the Municipality pay an amount that exceeds the actual costs incurred by Cooperative.

For any of Cooperative's facilities installed after the date of the signing of this agreement, so long as the City approves the placement of such facilities in writing, the City shall be responsible for the cost of moving or relocating Cooperative's facilities as necessitated for the grading, curbing, paving or otherwise changing of any street, avenue or other public infrastructure.

SECTION 5. In order for the Cooperative to render efficient, safe and continuous services, it will be necessary for Cooperative

to conduct vegetation management activities, including the trimming or pruning and cutting down of the trunks and branches of trees and/or vines and shrubs along or over the streets, sidewalks, alleys, avenues, squares, bridges and other public places in said Municipality, and areas dedicated to the Municipality for public utility use, wherever the same are likely to interfere with its equipment; therefore, Cooperative is hereby granted the right to conduct such vegetation management activities so as to enable it to erect, operate and maintain its equipment in a regular and consistent form and manner and to enable it to provide the most efficient, safe and continuous service that the circumstances will permit; provided, however, that Cooperative shall exercise proper care and discretion in its vegetation management activities. Notwithstanding the foregoing, to the extent applicable law may be superseded or modified by an agreement between Municipality and Cooperative, Municipality and Cooperative reserve the right to enter into such an agreement.

SECTION 6. As a further consideration for the rights, privileges and authorities granted by this ordinance, the Cooperative shall pay a fee equal to \$14.50 per meter, per year. As of the signing of this agreement the Cooperative has 678 meters within Municipality's borders. Municipality agrees that this fee shall be equal to or less than any fee charged for the use of Municipality's rights-of-way to any other electrical supplier. The fee shall be paid as follows, in Year 1 of the agreement, furnish Municipality compensation in the amount of \$2,457.75, payable within 30 days of the acceptance of this ordinance by the Municipality. In subsequent years, payment will be made within 30 days of the anniversary date of the ordinance on the following graduated scale: Year 2 - \$4,325.64; Year 3 - \$6,193.53; Year 4 - \$7,963.11; and Year 5 and all remaining years - \$9,831.00.

SECTION 7. Municipality may request a revision to the compensation amount after five years from the date of passage of this Ordinance if Municipality has a reasonable belief that the number of customers served by Cooperative has increased or decreased by 3% or more. Municipality must request the revision at least 60 days prior to the next anniversary date. If Cooperative confirms that the number of customers served by the Cooperative within Municipality's corporate limits has increased or decreased by 3% or more, the compensation amount will be revised by that percentage for the next and succeeding payments. Municipality may request similar revisions to compensation amounts under these criteria in additional five year period throughout the term of this Ordinance.

SECTION 8. If, at any time, during the term of this contract, Municipality permits another entity or person to provide electric distribution or similar services, and Cooperative reasonably believes the other entity or person is granted more favorable treatment, terms, or conditions, then Cooperative shall notify Municipality of such treatment, terms, or conditions. Upon receipt of such notice, Municipality and Cooperative shall negotiate in good faith to amend this ordinance to provide Cooperative such more favorable treatment, terms or conditions on an equivalent basis. Such amendment shall take into consideration all circumstances that distinguish between Cooperative and entity or person receiving the more favorable treatment, terms or conditions.

SECTION 9. The Cooperative shall be exempt from any special tax, assessment, license, rental or other charge during the term of this Ordinance, on all poles, conductors, wires, cables, conduits, equipment and other apparatus placed in the streets, alleys, avenues, bridges, easements, rights of way or other public places within the corporate limits of Municipality.

SECTION 10. The rights, privileges and authority hereby granted shall inure to and be vested in Cooperative, its successors and assigns, successively, subject to all of the terms, provisions and conditions herein contained, and each of the obligations hereby imposed upon Cooperative shall devolve and be binding upon its successors and assigns, successively in the same manner.

SECTION 11. This Ordinance shall confer no right, privilege or other authority on Cooperative, its successors or assigns, unless Cooperative shall within ninety (90) days after due notice to the Cooperative of the enactment of this Ordinance, file with the City Clerk an acceptance of the terms and provisions hereof; provided, however, that if such acceptance be not so filed within said period of ninety (90) days, all rights, privileges, and authority herein granted shall become null and void.

SECTION 12. All rights, privileges and authority given and granted by this Ordinance are granted for a term of 20 years from and after the acceptance of this Ordinance as hereinafter provided (the "Initial Term"), and thereafter on a year-to-year basis (each a "Subsequent Term") unless either the Cooperative or Municipality notifies the other in writing of its desire to terminate this Ordinance at least six (6) months prior to the expiration of the Initial Term or any Subsequent Term.

SECTION 13. The Municipality acknowledges that Cooperative is vested in rights, permissions and authority independent of this Ordinance. Neither acceptance of this Ordinance nor compliance with its provisions shall impair in any way or waive any right, permission or authority which Cooperative may have independent of this Ordinance. In addition, neither use by Cooperative of public property or places as authorized by this Ordinance nor service rendered by Cooperative in said Municipality shall be treated as use solely of the rights, permission and provided for by this Ordinance and in no way shall indicate non-use of any right, permission or authority vested in the Cooperative independent of this Ordinance. In the event the Municipality vacates any streets, avenues, alleys, easements, rights of way, bridges or other public places during the term of this Ordinance, Municipality agrees to reserve unto Cooperative the rights, privileges and authority herein given and granted to the Cooperative in upon, under, along, over and across each and all of such vacated premises which are at the same time in use by the Cooperative.

SECTION 14. All ordinance and parts of ordinance in conflict with this Ordinance or with any of its provisions are, to the extent of such conflict, hereby repealed.

property & casualty and workers compensation exposures.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Mattoon as follows:

Section 1. The Mayor, City Clerk and Mesirow Insurance Services are hereby authorized to take such administrative action necessary to bind the City of Mattoon's coverages with the St. Paul/Travelers Insurance Company for Property, General Liability, Auto Liability, Auto Physical Damage, Excess Liability, Law Enforcement Liability Public Officials Liability, Employment Practices Liability Workers Compensation, and bind the City of Mattoon's coverages with the Chubb Group for Commercial Crime, and Fiduciary Liability for the policy year beginning December 1, 2008 and ending December 1, 2009 pursuant to a proposal attached hereto and incorporated herein by reference.

Section 2. This ordinance shall be deemed published as of the day of its adoption and approval by the City Council.

Section 3. This ordinance shall be effective upon its approval as provided by law.

Upon motion by Mayor Cline, seconded by Commissioner Schilling, adopted this 4th day of November, 2008, by a roll call vote, as follows:

AYES (Names): Commissioner Ervin, Commissioner Hall,
Commissioner McKenzie, Commissioner Schilling,
Mayor Cline

NAYS (Names): None

ABSENT (Names): None

Approved this 4th day of November, 2008.

/s/ David W. Cline

David W. Cline, Mayor
City of Mattoon, Coles County, Illinois

ATTEST:

APPROVED AS TO FORM:

/s/ Susan J. O'Brien

Susan J. O'Brien, City Clerk

/s/ J. Preston Owen

J. Preston Owen, City Attorney

Recorded in the Municipality's Records on November 5, 2008.

Mayor Cline opened the floor for discussion. No discussion.

Mayor Cline declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor Cline.

Commissioner Schilling seconded by Commissioner McKenzie moved to approve Council Decision Request 2008-916, accepting the recommendations of the TIF Incentive Review Committee for:

- John R. and Cheryl L. Armstrong dba: AK Investments; located at 1913 Western Avenue granting an annual subsidy of \$4,875 with a term of three years to be disbursed 2008, 2009 and 2010 for a total of \$14,625 for façade improvements; and
- Janice Moritz dba Warner's Office Equipment & Gifts; located at 1601 Broadway Avenue granting \$66,950 for a term of 10 years disbursed in annual payments of \$6,695 commencing in 2009 for emergency structural roof repairs and requesting Mrs. Moritz to submit cost estimates and evidence of a financing commitment for her 50% share of the upper story improvements.

Mayor Cline opened the floor for discussion. No discussion.

Mayor Cline declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor Cline.

Mayor Cline seconded by Commissioner Ervin moved to recess to closed session pursuant to the Illinois Open Meetings Act for the purpose of considering the price for sale or lease of property (5 ILCS 120(2)(c)(6)); the purchase or lease of real property (5 ILCS 120(2)(c)(5)).

Mayor Cline declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor Cline.

Council reconvened at 8:13 p.m. Administrator Gilmore updated the Council on the South Route 45 hotel business plan. Council discussed the waterfowl discussions and situation, and called for a Special Meeting on November 12th at 5:30 p.m. with a court reporter's presence.

Commissioner Schilling seconded by Mayor Cline moved to adjourn at 8:40 p.m.

Mayor Cline declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor Cline.

/s/ Susan J. O'Brien
City Clerk

The special meeting of the City Council was held in the Council Chambers at City Hall on November 7, 2008 at 1:04 p.m.

Mayor Cline led the pledge of allegiance.

The following members of the Council answered roll call physically present: YEA Commissioner Randy Ervin, YEA Commissioner Rick Hall, YEA Commissioner Joe McKenzie, YEA Commissioner David Schilling, YEA Mayor David Cline.

Also physically present were City personnel: City Administrator Alan Gilmore, Attorney & Treasurer J. Preston Owen, Public Works Director David Wortman, Police Chief David Griffith, Deputy Police Chief Jeff Branson, Deputy Police Chief Adam Weinstock, Fire Chief Mike Chism, Assistant Fire Chief Andy Adair, Technology Coordinator Brian Johanpeter, Community Development Coordinator Kyle Gill, Assistant Public Works Director Chris Hartbank, Assistant Finance Director Robin Hunter, Administrative Assistant Deb Crean, Parks/Lakes/Cemetery Superintendent Kurt Stretch, Tourism Director Angelia Burgett (1:20 p.m.) and City Clerk Susan O'Brien. Union representatives physically attending the meeting were Mike Bennett – AFSCME, Eric Portner and Jonathan Seiler – Police, Bart Owen and Rob Ratliff – Fire.

Attorney & Treasurer Owen reviewed the General Fund Budget to Actual Comparison, Cash Position Summary, Revenues, and Year-to-Date Summary.

Council recessed at 2:00 p.m.

Council reconvened at 2:20 p.m. [Commissioner Hall returned at 2:27 p.m.]

Attorney & Treasurer Owen continued the review of budgets and called for any changes to the budget. Other topics discussed were replacement of police officer, fleet management replacement vehicle program, municipal lease program, purchase of two police patrol cars due to dispatchers' elimination, health care programs, and annual health insurance costs.

Commissioner McKenzie seconded by Commissioner Ervin moved to adjourned at 3:59 p.m.

Mayor Cline declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor Cline.

/s/ Susan J. O'Brien
City Clerk

The special meeting of the City Council was held at the Burgess Osborne, 1701 Wabash, on November 12, 2008 at 5:30 p.m.

Mayor Cline led the pledge of allegiance.

The following members of the Council answered roll call physically present: YEA Commissioner Randy Ervin, YEA Commissioner Rick Hall, YEA Commissioner Joe McKenzie, YEA Commissioner David Schilling, YEA Mayor David Cline.

Also physically present were City personnel: City Administrator Alan Gilmore, Attorney & Treasurer J. Preston Owen, Public Works Director David Wortman, Police Chief David Griffith, Deputy Police Chief Jeff Branson, Deputy Police Chief Adam Weinstock, and City Clerk Susan O'Brien.

Mayor Cline announced the procedures for addressing the Council and conduct expected from attendees, and noted the recommendations would be given to the Public Works Advisory Board for consideration and final recommendation to the Council. The following individuals addressed the Council regarding waterfowl hunting on Lake Mattoon: Jon Spitz 421 Charleston Avenue, Mattoon; Elmer Smith R.R. #1, Neoga; Brad Metcalf 2213 Charleston Avenue, Mattoon; Kenny Keefer 2039 Charleston Avenue, Mattoon; Brian Myerscough 3105 Loren Lane, Charleston; Bill Bosler 2045 McKinley, Charleston; Bruce Daniell 3216 Western Avenue, Mattoon; Tiffany Lanman 1300 Rudy, Mattoon; Greg Smith R#1, Stewardson; and Chris Bengel R.R. #1, Neoga.

Commissioner Hall seconded by Commissioner Ervin moved to adjourn at 6:03 p.m.

Mayor Cline declared the motion carried by the following vote: YEA Commissioner Ervin, YEA Commissioner Hall, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor Cline.

/s/ Susan J. O'Brien
City Clerk